

REMARKS

Receipt of the Office action dated May 27, 2003 is acknowledged. Claims 1-13, 36-46 and 51-57 are pending in the present application. The drawings have been objected to as failing to comply with 37 CFR 1.84(p)(4) and 1.83(a). Claims 16-30 have been rejected under 35 U.S.C. § 112 as being indefinite. Several groups of the claims have been rejected under 35 U.S.C. § 102(b) and/or 35 U.S.C. § 103(a), based on single or combinations of several cited references, respectively. In keeping with the foregoing amendments and the following arguments, allowance of the rejected claims and the new claims submitted with this response is respectfully requested.

The drawings have been objected to as failing to comply with 37 CFR 1.84(p)(4) and 1.83(a). Regarding the 37 CFR 1.84(p)(4) objection, a proposed drawing correction is submitted herein in an attached replacement sheet, which shows a correction made to FIG. 5. In particular, reference number 28 now properly identifies the outer side 28 of the second portion 20 of the upper body support device 10. Regarding the 37 CFR 1.83(a) objection, claims 15 and 26 have been cancelled, and therefore, the objection should be withdrawn.

Claims 16-30 have been rejected under 35 U.S.C. § 112, second paragraph, as being indefinite. Claims 16-30 have been cancelled, and therefore, the rejection thereof is now moot.

Claim Rejections under 35 U.S.C. § 102(b)

Claims 1-3, 6, 9-14, 31-33, 36, 37, 40, 41, 44-47, 50 and 51 have been rejected under 35 U.S.C. 102(b) as being anticipated by Fried et al., U.S. Patent 4,938,439 (Fried). Claims 1, 7, 9-14, 31, 34, 36, 37, 39 40, 44-47, and 49 have been rejected under 35 U.S.C. 102(b) as being anticipated by Schaeffer et al., U.S. Patent 5,170,971

(Schaeffer). Claims 1, 31, 36 and 44 of the rejected claims are independent. The remaining claims that are rejected based on Fried or Schaeffer directly or indirectly depend on claims 1, 31, 36 or 44.

Claim 31 has been cancelled.

Claim 1 has been amended to recite a body support device comprising an underside portion having a plurality of steps, each step adapted for placement on an edge portion of an elevated surface, wherein the plurality of steps provide a plurality of different placements of the underside portion on the edge portion of the elevated surface. Claim 36 has been amended to recite a method for supporting the body of a person when leaning over an elevated surface comprising contacting the body support device with a waist region of the person when leaning over the elevated surface.

Claim 44 has been amended to recite a method for supporting the body of a person when leaning over an elevated surface comprising placing a weight on a portion of the body support device disposed on top of the elevated surface. In contrast, neither Fried nor Schaeffer discloses any of the above-noted limitations of claims 1, 36 and 44.

Fried discloses an automobile armrest/tray accessory that includes a double wedge-shaped resilient body 14 having a rigid backing 12. Referring to FIG. 2, a narrow wedge 10a of the resilient body 14 can be forcibly inserted in a gap between a seat and an a center console of an automobile so that a passenger can rest his arm on a top surface 18 of the resilient body 14. Referring to FIG. 3, the resilient body 14 can alternately be placed on a person's lap so that the rigid backing 14 functions as a tray.

Schaeffer discloses a wrist supporter 10 that is mounted to a table edge 12. A user can rest his arm on the wrist supporter 10. The L-shape of the wrist supporter 10 provides attachment thereof to the table edge 12. One or more velcro strips attached to the wrist supporter 10 engage corresponding velcro strips on the table edge 12 to affix the wrist supporter 10 to the table edge 12. The wrist supporter 10 can be mounted to the table edge 12 so that a flat surface 30 thereof is used as an arm rest surface. Alternately, the wrist supporter 10 can be mounted to the table edge 12 so that a curved surface 24 thereof is used as an arm rest surface.

However, neither Fried nor Schaeffer discloses or even suggests the following limitations of claims 1, 36 or 44, respectively: 1) an underside portion having a plurality of steps, each step adapted for placement on an edge portion of an elevated surface, wherein the plurality of steps provide a plurality of different placements of the underside portion on the edge portion of the elevated surface; 2) a method for supporting the body of a person when leaning over an elevated surface comprising contacting the body support device with a waist region of the person when leaning over the elevated surface; or 3) a method for supporting the body of a person when leaning over an elevated surface comprising placing a weight on a portion of the body support device disposed on top of the elevated surface.

Based on the foregoing, neither Fried nor Schaeffer discloses all the limitations recited in each of the claims 1, 36 or 44. Therefore, claims 1, 36 and 44 are now in condition for allowance and the rejection thereof under on §102(b) based on Fried or Shaeffer should be withdrawn. Accordingly, rejection of the corresponding dependent claims under §102(b) based on Fried or Shaeffer should also be withdrawn.

Claim Rejections under 35 U.S.C. § 103(a)

Claims 4, 5, 38 and 48 are rejected under 35 U.S.C. 103(a) as being unpatentable over either Fried in view of Kobayashi, et al., Japanese Patent 11206537(Kobayashi), or Schaeffer in view of Kobayashi.

Regarding the rejection of claims 4, 5 and 38, a proper obviousness rejection requires that the cited prior art teach or suggest all of the limitations of the rejected claims. Claims 4 and 5 depend from claim 1, and claim 38 depends from claim 36. Accordingly, in view of the amendments to base claims 1 and 36, dependent claims 4, 5 and 38, respectively, include the same limitations discussed above. Therefore, because the above noted claim limitations are clearly missing from either the Fried/Kobayashi combination or the Shaeffer/Kobayashi combination, the rejection of dependent claims 4, 5 and 38 should be withdrawn. *See In re Evanega*, 829 F.2d 1110, 4 USPQ2d 1249 (Fed. Cir. 1987).

Claim 48 has been cancelled. However, claim 44 has been amended to now partly recite the limitation of the cancelled claim 48. In particular, claim 44 has been amended to recite a method for supporting the body of a person when leaning over an elevated surface comprising placing a weight on a portion of the body support device disposed on top of the elevated surface.

There is no teaching, suggestion, or motivation in either Fried, Shaeffer or Kobayashi to rely on a combination of Kobayashi with any of Fried or Shaeffer for a *prima facie* case of obviousness. Obviousness cannot be established by combining the teachings of the prior art to produce the claimed invention, absent some teaching, suggestion or incentive supporting the combination. *ACS Hospital Systems, Inc. v. Monteforre Hospital*, 732 F.2d 1572, 1577, 221 USPQ 929, 933 (Fed. Cir. 1984). As

described in detail in the foregoing, neither Fried nor Shaeffer discloses or suggests a weight for use with its respective device. On the other hand, Kobayashi discloses a therapeutic pillow that includes a plurality of magnets therein for providing a magnet treatment effect. The magnets of Kobayashi are not characterized as weights in the disclosure of Kobayashi and only serve the function of providing magnet treatment to the user of the pillow of Kobayashi. Also, Kobayashi does not provide any teaching, suggestion or incentive to use its disclosed magnets as weights. Accordingly, one of ordinary skill in the art could not have combined any one of Fried or Shaeffer with Kobayashi to provide the upper body support device claimed in claim 44 of the present application. Therefore, claim 44 is patentable over any one of Fried or Shaeffer in view of Kobayashi.

Claims 8 and 35 have been rejected under 35 U.S.C. 103(a) as being unpatentable over Fried in view of Klemis, U.S. Patent 5,199,124 (Klemis). Regarding the rejection of claim 8, a proper obviousness rejection requires that the cited prior art teach or suggest all of the limitations of the rejected claims. Claim 8 depends from claim 1. Accordingly, in view of the amendments to base claim 1, dependent claim 8 includes the same limitations discussed above. Therefore, because the above noted claim limitations are clearly missing from the combination of Fried and Klemis, the rejection of dependent claim 8 should be withdrawn. Claim 35 has been cancelled and rejection thereof is now moot.

Claims 15, 16, 19-25, 28-30, 42, and 43 have been rejected under 35 U.S.C. 103(a) as being unpatentable over Fried in view of Austin, U.S. Patent 5,360,017 (Austin). Claims 15, 16, 19-25 and 28-30 have been cancelled, and therefore, the rejection of these claims is now moot.

As for claims 42 and 43, claim 42 recites a method for supporting the body of a person when leaning over an elevated surface comprising "fastening a body support device to a person, ...; leaning toward the elevated surface; placing the underside portion on the edge portion of the elevated surface; and leaning on the outer side of the body support device when leaning over the elevated surface."

In contrast to the recited steps of claim 42, neither Fried nor Austin discloses a method of supporting the body of a person when leaning over an elevated surface comprising "fastening a body support device to a person, ...; leaning toward the elevated surface; placing the underside portion on the edge portion of the elevated surface; and leaning on the outer side of the body support device when leaning over the elevated surface." A proper obviousness rejection requires that the cited prior art teach or suggest all of the limitations of the rejected claims. *See In re Evanega*, 829 F.2d 1110, 4 USPQ2d 1249 (Fed. Cir. 1987). Accordingly, absent some disclosure of the recited steps of claim 42, Fried, Austin, or a combination thereof cannot render claim 42 obvious. Therefore, rejection of claim 42 should be withdrawn. Claim 43 depends from claim 42, and similarly, the rejection thereof should be withdrawn.

Claims 15, 16, 19-26, and 28-30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schaeffer in view of Austin. These claims have been cancelled and the rejection thereof is now moot.

Claims 17 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over any one of Fried or Schaeffer in view of Austin and further in view of Kobayashi. These claims have been cancelled and the rejection thereof is now moot.

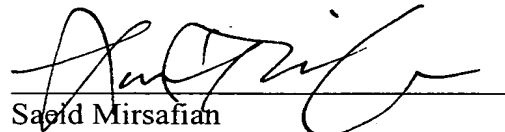
Claim 27 is rejected under 35 U.S.C. 103(a) as being unpatentable over Fried in view of Austin and further in view of Klemis. Claim 27 has been cancelled and the rejection thereof is now moot.

Claims 52-57 have been added with this response, allowance of which are respectfully requested.

Accompanying this response is a petition for extension of time and the fee for a two month extension. Any additional fees may be charged to deposit account no. 13-2855.

In view of the foregoing the above-identified application is in condition for allowance. In the event there is any remaining issue that the Examiner believes can be resolved by a telephone conference, the Examiner is respectfully invited to contact the undersigned attorney at (312) 474-6639.

Respectfully submitted,



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